

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN RE:)
)
AGNES PAULINE WEBSTER,) CASE NO. 10-80577
) (Chapter 13)
Debtor.)

**MOTION FOR, AMONG OTHER THINGS,
RELIEF FROM THE AUTOMATIC STAY**

COMES NOW Ford Motor Credit Company, LLC (herein "Ford Credit"), pursuant to 11 U.S.C. §362(d), and moves for relief from the automatic stay herein, or, in the alternative, applies to the Court for adequate protection of its interest in the below-described vehicle, as follows:

1. The Debtor commenced this case by petition filed on or about March 30, 2010.
2. On or about February 7, 2006, the Debtor's husband, Dante Lewis Webster (herein "Mr. Webster"), purchased a 2002 Ford Ranger truck, VIN # 1FTYR44U72TA25461 (herein the "Vehicle"), pursuant to the terms of an installment sales contract of even date (herein the "Contract"). A copy of the Contract is attached hereto marked Exhibit 1. The Contract was subsequently assigned to Ford Credit and Ford Credit is now the sole owner and holder of same.
3. Under the terms of the Contract, Ford Credit has a senior security interest and first lien on the Vehicle that it duly perfected. A copy of the Certificate of Title evidencing same is attached hereto marked Exhibit 2.
4. On information and belief, Mr. Webster is now deceased and the Debtor has actual possession of the Vehicle.
5. The Chapter 13 Plan as confirmed called for the payments due under the Contract to be made to Ford Credit through the Trustee's office; however, on or about October 27, 2010, the

Trustee filed a Motion To Disallow Ford Credit's claim and an Order was subsequently entered on December 14, 2010 granting that Motion on the basis that the Debtor is not obligated on the loan.

6. The payments due under the Contract are in arrears for the April 9, 2010 payment of \$255.53, and the May 9, 2010 through December 9, 2010 payments of \$310.53 each, plus \$17.70 late charges, for a total arrearage of \$2,757.47. (See Exhibit 3).

7. The current net payoff amount due under the Contract is \$6,015.43, together with interest accruing thereon at 21.30% per annum. At the same time, the current NADA wholesale value of the Vehicle is \$4,800.00. See Exhibit 4.

8. Under these circumstances, Ford Credit does not have adequate protection of its security interest in the Vehicle, and thus there is good cause to grant Ford Credit relief from the automatic stay under 11 U.S.C. §362(d).

9. If Ford Credit is not permitted to foreclose its security interest in the aforesaid Vehicle, it will suffer irreparable injury, loss and damages.

10. Due to the nature of the Vehicle as being easily moved, easily secreted and easily damaged, Ford Credit also hereby requests that any order granting the relief requested herein be immediately effective.

WHEREFORE, Ford Credit moves the Court for the following relief:

1. The Court enter an Order pursuant to 11 U.S.C. §362(d) and Rule 4001(a)(3) immediately lifting the automatic stay to permit Ford Credit to foreclose its security interest in the Vehicle in accordance with its loan documents and applicable law.

2. The Debtor be ordered to immediately release the Vehicle to Ford Credit or advise it of the location of the Vehicle and the name, address, and telephone number of any third party who has possession.

3. Ford Credit have such other and further relief as to the Court seems just and proper.

This the 28th day of December, 2010.

KIRSCHBAUM, NANNEY, KEENAN & GRIFFIN, P.A.

By: /s/ Pamela P. Keenan

Pamela P. Keenan

N.C. State Bar No. 20328

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this day, she served a copy of the foregoing on the parties in interest either electronically or by depositing copies of same in a depository under the exclusive care and custody of the United States Postal Service, in a postage-paid envelope, addressed as follows:

Agnes P. Webster
729 Lawrence Rd., Lot 2
Hillsborough, NC 27278

John T. Orcutt
6616-203 Six Forks Rd.
Raleigh, NC 27615

Richard M. Hutson, II
PO Box 3613
Durham, NC 27702

This the 28th day of December, 2010.

s/ Gwen T. Best
Gwen T. Best
Paralegal